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UNCLAS SECTION 01 OF 02 BRUSSELS 002950

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E.O. 12958: N/A

TAGS: [CVIS](#) [PREL](#) [REF](#) [SMIG](#) [KCRM](#) [SW](#) [EUN](#)

SUBJECT: EU COUNCIL EXPECTS FULL VISA RECIPROCITY BETWEEN U.S. AND
ALL EU COUNTRIES

SUMMARY

1. EU ministers in the September 18 Justice and Home Affairs (JHA) Council heard a presentation of the Commission's third report on the visa reciprocity mechanism, including the Visa Waiver Program (VWP) with the U.S. Commission Vice-President Frattini and Portuguese Interior Minister/Council chair Rui Pereira expressed confidence that "in the near future," the U.S. will guarantee a "uniformity of treatment" to all EU Member States. Ministers noted that the extension of the Schengen Information System to include the new EU Member States into the database was proceeding according to schedule. They adopted conclusions on operations coordinated by the EU Borders Agency (FRONTEX) to cope with the influx of illegal migrants in the Mediterranean. They agreed on the substance of a Regulation setting the security features and biometric identifiers to be used by the Member States in a uniform format of residence permit for non-EU nationals. Judicial cooperation issues discussed at the Council will be reported SEPTEL. Full text of Council conclusions has been transmitted to EUR/ERA. END SUMMARY.

VISA WAIVER RECIPROCITY/VISA WAIVER PROGRAM

2. At the September 18 JHA Council, Vice-President Frattini presented the Commission's third report on the visa reciprocity mechanism, including the VWP with the U.S. Speaking at a joint press conference with Portuguese Interior Minister/Council chair Rui Pereira, Frattini said the report showed "very good progress" concerning the treatment of citizens from newest EU members Bulgaria and Romania, noting the lifting of the visa requirement by Mexico and New Zealand. Further progress on reciprocity had also been recorded with Australia. Frattini said the Council agreed to authorize the Commission to open negotiations for the conclusion of a short stay visa waiver agreement between the European Community and Brazil. Frattini said the Commission was "not satisfied" about progress made with Canada. The EU would expect Canada to lift the visa requirement for one or more EU Member States by the end of the year and to show further concrete progress toward reciprocity. Failing such progress, Frattini would have to recommend that "measures" be considered against Canada.

3. By contrast, Frattini welcomed the new legislation recently adopted by the U.S. on modernizing the VWP. Frattini said he was "very confident that in the near future," there would be "a uniformity of treatment for all member States vis-à-vis the U.S." In its conclusions, the Council said the adoption of the legislation "should pave the way for its extension to all Member States." The conclusions said the Commission reserved "the right to propose retaliatory measures if expected progress toward full visa reciprocity fails to materialize in good time," a point not echoed by Frattini in his public comments. Asked if the Council had shared Frattini's positive reading of the U.S. legislation, minister Pereira opined that "the new visa regime of the U.S. does allow for equal treatment of all EU citizens," adding: "I endorse the general view expressed by Vice-President Frattini." The next Commission

overall VWP report is due no later than June 2008.

ENLARGEMENT OF SCHENGEN AREA

14. Meeting in the "Mixed Committee" with their Schengen counterparts from Iceland, Norway and Switzerland, ministers reviewed the implementation of the "SISone4all" project (read: the temporary expansion of the current Schengen Information System to include the new EU Member States into the database system) and progress made by the future Schengen members to comply with the Schengen "acquis." Minister Pereira said the technical part of the "SISone4all" project had progressed "smoothly," in accordance with the timetable. The implication is that the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia have been able (since September 1, 2007) to use the SIS. EU sources said some of the countries concerned had already announced hits in the system. All new countries continue to prepare themselves for the planned deployment of the upgraded SIS II system.

15. Work on the evaluation of all non-SIS-related aspects (data protection, police cooperation, sea, land and air borders and visa-issuance) was about to be completed. Frattini said he would not expect any problem regarding the evaluation and Pereira expressed confidence that the Schengen area will therefore "be able to enlarge by the end of the year" (opening of the land and sea borders with new countries could be envisaged in time for the Christmas period, he said). The lifting of air borders would occur by the end of March 2008. Frattini was "very much hoping" for a final decision on the lifting of checks at the next formal JHA Council on November 8-9.

RESIDENCE PERMIT FOR NON-EU NATIONALS

16. Ministers agreed on the substance of a Regulation setting the

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security features and biometric identifiers to be used by the Member States in a uniform format of residence permit for non-EU nationals.

The uniform format will "include a storage medium containing the facial image and two fingerprints images of the holder, both in interoperable formats." The data shall be "secured and stored." The integrity, the authenticity and the confidentiality of the data will be guaranteed. Technical specifications for the biometric identifiers would be set in accordance with the technical requirements for passports issued by Member States to their nationals.

EU MARITIME BORDERS/FRONTEX OPERATIONS

17. Frattini said ministers assessed recent operations coordinated by the EU Borders Agency (FRONTEX) to cope with the influx of illegal migrants in the Mediterranean, based on a presentation by FRONTEX Director Laitinen. Frattini noted that 500 staff from the EU Member States were now at the disposal of the Agency and "ready to be deployed" at very short notice. Frattini mentioned that operations at sea recently made it possible to save more than 1,000 lives and that more than 20 smugglers had been arrested.

18. Following on the June JHA Council, which discussed dramatic events in the Mediterranean, and subsequent work by the EU PermReps (COREPER), the Council adopted conclusions setting out measures to further strengthen the EU's Southern maritime borders. The conclusions, meant to address Maltese concerns in dealing with the influx of illegal migrants crossing the Mediterranean, encourage the EU Member States, "in a spirit of solidarity and shared responsibilities, to provide support to each other on a bilateral basis." Specific points are included regarding the types of support which Member States should provide to partners facing a "particular pressure" from illegal immigration: return operations, reception conditions, taking responsibility for asylum-seekers, etc. Such pressure, the conclusions note, can arise from factors such as the geographical location of countries and "the degree to which neighboring third countries fulfill their international obligations on search and rescue."

19. Member States are also invited, in cooperation with FRONTEX, to "implement measures of a longer nature concerning maritime patrols at the Southern external border". These measures could include joint operations at a limited number of high-risk areas.

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